IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 828 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE A.L.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

GUJARAT AGRO INDUSTRIES CORPORATION LTD.

Versus

AGRICULTURAL PRODUCTS MARKETING COMMITTEE

Appearance:

MS PJ DAVAWALA for Petitioner

MR BS PATEL for Respondent No. 1

CORAM : MR.JUSTICE A.L.DAVE

Date of decision: 16/02/2001

ORAL JUDGEMENT

1. By this Civil Revision Application the revisioner who is the defendant in Regular Civil Suit No. 32/2000 pending before the Civil Judge (Junior Division) at Gandevi, District Valsad challenges the order passed by

Second Extra Assistant Judge, District Valsad at Navsari in Miscellaneous Appeal No. 27/2000.

2. The facts in brief can be stated thus;

2.1 The revisioner, Gujarat Agro Industries Corporation Ltd is a company registered under the Companies Act which was given land on an annual rent of Rs.3,000 on lease to the plaintiff/present respondent-Agricultural Products Marketing Committee, at Bilimora, Post Devsar. The said land was leased for installation and running a food canning factory. The possession of the land was given on 01.04.1972. Thereafter, the revisioner/defendant constructed a superstructure for the factory and installed certain machinery. Ultimately, it was found that it is not viable to run the factory departmentally. Therefore, revisioner placed an advertisement inviting tenders for giving the factory on leave & licence. On noticing this the landlord i.e. present respondent, Agricultural Products Market Committee (A.P.M.C.) preferred the said suit before Civil Judge (Junior Division) at Gandevi seeking injunction against leasing of the factory by the Revisioner (Corporation). A.P.M.C. also sought interim injunction and for that purpose preferred application Exh. 5 under Order 39, Rule 1, 2 of Civil Procedure Code. Learned Civil Judge after considering the rival side contentions partially allowed the application and passed an order restraining the Corporation from transferring or parting with the possession of the suit land either on leave and license or in any other manner and rejected the prayers for injunction against transfer or lease of plant and machinery.

3. Aggrieved by the said order A.P.M.C. preferred an appeal before District Court vide Miscellaneous Appeal No. 27/2000. The learned Second Extra Assistant Judge allowed the appeal and granted injunction against transfer of the plant and machinery of the factory and super structure thereof or so till final disposal of the Suit No. 32/2000. Aggrieved by the said judgement and order the Corporation has preferred present Revision Application.

4. As per statement made at the Bar by learned Advocate Mr. B.S. Patel & Ms. Davawala, a consensus is arrived as under between the parties.

a. The corporation/revisioner is agreeable to the offer made by A.P.M.C. of purchase of the factory with super structure, plant & machinery etc.

b. The Corporation has installed certain machinery which is not owned by Corporation but is either borrowed or taken on lease from a third party. The Corporation will be at liberty to remove this machinery. The Corporation shall do so within a week from today.

c. The parties agree to accept the sale price of the factory in question as would be determined by a Government Authoritied Valuer namely G.I.T.C.O. The Corporation agrees to sell, and A.P.M.C. agrees to purchase the factory at the price that would be fixed by G.I.T.C.O. G.I.T.C.O shall, after inspection, fix the price within four weeks from today.

d. A.P.M.C. shall make the payment within two months from fixation of the price by G.I.T.C.O. This period will start to run from the date of communication of the price fixed by G.I.T.C.O. The Corporation shall promptly intimate in writing the price fixed by G.I.T.C.O. to A.P.M.C.

e. In view of the above consensus settlement arrived at between the parties the order passed by the learned Second Extra Assistant Judge in Miscellaneous Appeal No. 27/2000 as well as by learned Civil Judge (Junior Division) at Gandevi below Exh. 5 in Regular Civil Suit No. 32/2000 would stand quashed and set aside.

f. A.P.M.C. shall withdraw the suit No. 32/2000 pending before Civil Judge (Junior Division) Gandevi within two weeks from today.

g. A.P.M.C. will be entitled to claim possession on payment of the price of the factory, plant etc. and the Corporation shall hand over the possession without dispute upon receiving the price from A.P.M.C.Liberty reserved to parties to approach this Court in case of difficulty.

5. This Revision Application stands disposed of in the above terms with no order as to costs.

(A.L. DAVE,J.)

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